

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,  
*Plaintiff,*

**NOTICE OF MOTION**

v.

Case No: 20-cr-00195(JLS)(JJM)

DAVID RUBEL,  
*Defendants.*

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S I R S :

PLEASE TAKE NOTICE that upon the annexed affidavit Herbert L. Greenman, Esq., the undersigned moves this Court for an Order extending the time within which the defense must file motions for 4 additional weeks for reasons set forth in the affidavit annexed hereto and made a part hereof together with such other and further relief as to this Court may deem just and proper.

DATED: Buffalo, New York  
August 17, 2021

Respectfully submitted,

/s/Herbert L. Greenman

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HERBERT L. GREENMAN, ESQ.  
LIPSITZ GREEN SCIME  
CAMBRIA, LLP  
Counsel for Defendant  
DAVID RUBEL  
42 Delaware Avenue  
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TO: LAURA HIGGINS, ESQ.  
ASSISTANT UNITED STATES ATTORNEY  
138 Delaware Ave.  
Buffalo, NY 14202

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,  
Plaintiff,

v.

DAVID RUBEL

Defendants.

**AFFIDAVIT**  
Case #20-cr-00195(JLS)(JJM)

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STATE OF NEW YORK                     )  
COUNTY OF ERIE                     SS:  
CITY OF BUFFALO                     )

HERBERT L. GREENMAN, Esq. being duly sworn deposes and says:

1. I am an attorney for the defendant David Rubel.
2. Previously, your deponent has asked for a number of extensions within which to file pretrial motions. During that time, counsel has had numerous conversations with the government relative to a plea disposition. It appeared at one point that the plea was maybe satisfactory but at a later point the parties realized that the plea was not actually being offered in that context. As a consequence, the parties have continued to have conversations about this matter.
3. In conversations I have had with the government, I am going to file a written proposal to the government relative to the issues of a change of plea proceeding. Because I am working on a brief that is due to the Second Circuit Court of Appeals next week, I expect that I will file a proposal with the government within the next week to a week and a half.
4. I expect that I will receive a relatively quick response.
5. As a result, I am respectfully requesting that the time within which to file

motions be extended for an additional 4 weeks.

6. The government has advised that if your deponent files motions that the chance of any plea disposition which may otherwise be favorable to Mr. Rubel may not otherwise be available. As a result, I believe this request is in Mr. Rubel's best interest.

7. Assistant United States Laura Higgins has advised that she has no objection to this request.

8. The parties agree that the speedy trial time should be excluded on the basis that the interest of the defendant and the community in a speedy disposition of this case is outweighed by this request.

WHEREFORE, your deponent prays that this Court rule accordingly.

DATED: August 17, 2021  
Buffalo, New York

Respectfully submitted,

/s/Herbert L. Greenman

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HERBERT L. GREENMAN, ESQ.  
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Sworn to before me this 17<sup>th</sup> day  
Of August, 2021

/s/Elizabeth M. Jagord-Ward

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Notary Public, State of New York  
Qualified in Erie County  
My Commission Expires October 31, 2022